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EXAMINER
GREGG, MARY M

ART UNIT	PAPER NUMBER
3694	

NOTIFICATION DATE	DELIVERY MODE
07/15/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/749,696	CREVELING ET AL.
	Examiner	Art Unit	
	MARY GREGG	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2011</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-14 and 16-23</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-14 and 16-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a Non-Final Office Action in response to communications

received June 8, 2011. Claims 1, 14 and 20 have been amended. Claim 15 has been

canceled. No new claims have been added. Therefore, claims 1-14 and 16-23 are

pending and addressed below.

Response to Arguments

Applicant's arguments with respect to claims 1-14 and 15-23 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4.   **Claims 1-2, 6-11, 13 and 21 are rejected under 35 U.$.C. 103(a) as being**

unpatentable over US Patent 6,154,729 to Cannon (Cannon) in view of US Patent

Publication 200210099649 by Lee (Lee) in view of US Patent No. 7,356,516 B2

Richey et al (Richey) and further in view of US Patent No. 6,324,523 B1 by Killeen

Jr. et al. (Killeen).

<u>In reference to Claim 1</u>:

Cannon teaches:

(Currently Amended) A method for processing credit transactions, comprising:

identifying by a computer-based system, ...a merchant with a disputed credit transaction

in a period of time, wherein a predetermined threshold ratio of disputed credit

transactions to total credit transactions is stored for the period of time; (see Col 3, lines

45-65, note that merchants with 'excessive' chargebacks are listed on the report);

determining by the computer-based system a number of the disputed credit transactions

and a number of credit transactions involving the merchant in the period of time (see

Col 3, lines 45-65, note that the ratio calculated for the purposes of the report is that of

chargebacks to transactions); determining by the computer- based system, a ratio of the

number of disputed credit transactions to the number of credit transactions for the

merchant (see Col 3, lines 45-65, note that the ratio calculated for the purposes of the

report is that of chargebacks to transactions);

Cannon suggest but does not explicitly teach:

...assessing by the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio...; and wherein the fee is set based on a monetary value of each of the disputed credit transactions of the merchant that exceeds the predetermined threshold ratio((Cannon) in at least Col 3 lines 28-67, Col 4 lines 1-16, 43-55, Col 7 lines 48-67, Col 8 lines 29-39, 45-49; note that the prior art teaches credit exceed credit risk for chargebacks and explicitly teaches information provides chargebacks as a percentage of sales which fairly suggest that the merchants sales exception report incorporates merchant exceeding merchant's ratio)

Cannon does not explicitly teach:

...wherein the fee is not assessed to all disputed transactions... <u>and in response to the merchant exceeding a threshold number of time periods in which the merchant may exceed the predetermined threshold ratio without incurring the fee</u>,...

Lee teaches:

... for assessing a fee ((Lee) para 0019),... assessing by the computer-based system, a fee against the merchant for each disputed transaction ((Lee) para 0019 line 1) involving the merchant that exceeds the predetermined threshold ratio ((Lee) para 0019), in response to the merchant's ratio being at least equal to the predetermined threshold ratio (see par 19, note that both a fee per chargeback and a fine for too many

chargebacks (i.e. typically 1.5-3% of volume) are both taught. The combination of these

methods of penalizing chargebacks fairly suggests charging a fee for each transaction

that exceeds a threshold in so far as the fee per charge back suggests the 'for each'

component and the fine for having too many suggests applying the fee above a

threshold) ;...

Richey teaches:

> ...for assessing a fee ((Richey) in at least Col 5 lines 28-33, Col 16 lines 50-58,

Col 18 lines 54-59, Col 21 lines 60-67, Col 22 lines 28-41) ,... wherein the fee is not

assessed to all disputed transactions,((Richey) in at least FIG. 7; Col 6 lines 45-67, Col

7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines 55-67, Col 22

lines 25-44), wherein the fee is set based on monetary value of each of the disputed

credit transactions of the merchant.((Richey) in at least FIG. 5, FIG. 7; Col 5 lines 38-33,

Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18

lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44)...

> With respect to the limitation "assessing a fee against the merchant for each

disputed transaction involving the merchant that exceeds the predetermined threshold

ratio, the prior art Richey was not applied to this limitation. What Richey was applied to

was in the event of a chargeback and a dispute is implemented, that depending on the

decision of arbitration no fee is assessed on some disputed transactions. The examiner

maintains that Richey teaches explicitly arbitration decisions in disputed chargebacks

where no fee is assessed.

Killeen teaches:

...<u>and in response to the merchant exceeding a threshold number of time periods</u>

<u>in which the merchant may exceed the predetermined threshold ratio without incurring</u>

<u>the fee</u>,...((Killeen) in at least FIG. 2, FIG. 3B, FIG. 7A-B; Col 2 lines 42-47, Col 10 lines

61-67, Col 11 lines 10-33)

Lee and Cannon combination;

Cannon teaches explicitly Col 3 lines 37-55:

" agent bank profitability category**: Excessive Chargeback Ratio** 92, Merchant
Activity/Inactivity 94, Merchant Alphabetical Listing 96, Merchant Inactivity Report 98,
Merchant Numerical Listing 100, Portfolio Profitability Recap 102, Process Mode
Summary Report 104, Profitability Analysis Details 106, Top/Bottom Merchants By Net
Income 108, Year to Date Profitability 110.

(10)   The **excessive chargeback ratio report lists all merchants with an excessive
ratio of chargebacks to transactions that exceeds the ratio specified by the user**. A
chargeback is a transaction that has been challenged by a cardholder and returned
through interchange to the acquiring bank by a card holder issuing bank. This report
enables the **user to individually address merchants with excessive chargebacks**.
The merchant activity/inactivity report provides a summary of the merchant portfolio
activity on a monthly and year to date basis including the user's total merchant base
including active merchants and canceled merchants.

Col 4 lines 36- 40

(16)   Referring now to FIG. 7, a WWW page 130 is displayed on client station 16 when
user clicks Chargebacks/Retrieval 52 hyperlink. WWW page 130 includes the following
hyperlinks to reports **corresponding to the chargebacks/retrieval category:
Chargeback Activity Summary 132, Chargeback Aging By Reason Code 133,
Monthly Chargeback Summary 134,** and Monthly Retrieval Activity 136.

Col 7 lines 49-67:

includes the following hyperlinks to reports corresponding to the security/fraud exceptions
category: **Credits Exceeding Sales Exception** Report 212, **Daily Average Ticket
Variance** (Signed Norm) 214, **Daily Average Ticket Variance**-2 216, Daily Credit Report
218, Daily Declined/Referred Rate 220, Daily Exception NRPT Report (DER) 222, Daily
Licensed Exception NRPT 224, **Daily Top Depositor** 226, Keyed vs. Scanned Exception
report 228, Monthly Retrieval report 230, New Account Tracking report 232, Semi
Monthly Chargeback report (15th) 234, Semi Monthly Chargeback report (30th) 236,
Single Cardholder Sales/Credits 238, Telemarketing Exception report 240, Weekly Multi
Sales/Credit Small Cardholder 242, and Weekly Activity Client Tracking report 244.

(48) The **credits exceeding sales exception report highlights all merchants whose
dollar amount of credits on any given day exceeds the amount of sales** for that day
by a given amount and percentage. Excessive credits create immediate risks and need to
be investigated immediately.

(49) The daily average ticket variance (signed norm) report is for newly
signed/depositing merchants. **This report highlights those merchants whose actual
average ticket variance exceeds their signed average ticket by a predefined
percentage**.

Note that in at least these citation Cannon teaches a threshold ratio based on

transaction value amount.

Lee teaches a scoring system for scoring transactions and disputes/chargebacks. Lee

teaches that high transactions amounts generate a higher score that indicates a higher

probability of chargebacks...see at least para 0134.

[0134] The model manager includes a rule editor for editing model rules, and a model
driver that accepts the raw input data and calculates variables for model development.
Rules may be used to execute variable calculations, flow control and data manipulation.
Rules are extremely useful in creating expert systems or to control model inputs and
outputs. For example, rules may be written to flag transactions with certain attributes (e.g.
very high transaction amount).

Although Lee does teach the fines directed toward volume of chargebacks,

Cannon teaches chargeback tracking directed toward excessive sales exceeding

"average ticket price" which strongly suggest high transaction ticket price. It would have

been obvious to one of ordinary skill in the art at the time of the invention to apply the

teachings of tier fee assessment for volume of Lee to excessive ticket value of Cannon.

As both Cannon and Lee teach parameters that are considerations and increase risk for

chargeback and teach explicitly that price and volume generate higher probability of

chargebacks and it makes obvious at the time of the invention to understand that known

work in one field of endeavor may prompt variations of it for use in either the same field

or a different one based on design incentives or other market forces if the variations are

predictable to one of ordinary skill in the art.

Both Cannon and Lee are directed toward management of transactions. Lee

teaches the motivation of providing an incentive for merchants to reduce chargebacks in

order to reduce cost and risk. It would have been obvious to one having ordinary skill in

the art at the time of Applicant's invention to have provided Cannon with the fee and fine

features of Lee in order to have provided merchants with an incentive to take action to

reduce chargebacks as taught implicitly by Lee since fines escalate if chargebacks

continue unabated. The prior art Lee teaches;

"In addition to paying a fee for each chargeback, issuing banks **can** levy
fines on merchants having too many chargebacks."

As broadly interpreted by the examiner, the term "can" indicate an ability or a means to

set forth further action. However, "can" provides an option for action and does not limit

the action as a definite action "levy a fine".

With respect to the teachings of Lee "paying a fee for each chargeback"; Richey

teaches that when chargeback occurs and a fee us assessed that both the merchant

and/or the buyer can dispute the fine/fee and teaches that the participating parties can

challenge and bring the matter to arbitration which then determines who and how much

if any fines/fee the participating entities (issuer, acquirer, merchant or buyer) will pay for

the chargeback.   The prior art, Richey explicitly teaches fees/fines can be applied for

each chargeback but that the participating entities can challenge the fee. Therefore, the

examiner maintains that the teachings of the prior art are directed toward the same

scope with respect to fines/fee and that Richey can be applied within the parameter of

the teachings of Lee without changing the principle of operation of the prior art.

Therefore, it would have been obvious as known work in one field of endeavor may

prompt variations of it for use in either the same field or a different one based on design

incentives or other market forces if the variations are predictable to one of ordinary skill

in the art.

The combination and Richey are explicitly directed toward transaction disputes.

Richey teaches itemizing information with respect to a dispute in order to determine the

legitimacy of the disputed transaction (see in at least Col 5 lines 5-10). The prior art

provides some teaching, suggestion, or motivation in the prior art that would have led ne

of ordinary skill to modify (applying a known technique to a known device (method, or

product) ready for improvement to yield predictable results) the prior art reference or to

combine prior art reference teachings to arrive at the claimed invention. See MPEP §

214 3

Note: a late charge is a "fee" charges as a penalty for a user behavior and fines are

commonly implemented as a "penalty". The claims limitations charge a fee based on

the dispute exceeding determined parameter. Lee teaches a fee (set amount) as a

penalty and fines (range of cost) as a further penalty. The fee and fine of Lee are

directed as a penalty charge not as a service charge. The fee in the limitation of the

claims are directed toward the scope of a penalty and not directed toward a service.

The examiner maintains that the fine as set forth in the teachings of Lee are analogous

to the scope of the claims.

Both the combination and Killeen teach that fees are accessed when triggered

transaction events occur. Killeen provides motivation for fee waiver in order to reward

specific level (i.e. gold level, silver level) of clientele using the transaction services

thereby providing some teaching, suggestion, or motivation in the prior art that would

have led one of ordinary skill to modify the prior art reference or to combine prior art

reference teachings to arrive at the claimed invention. See MPEP § 214 3. Although

Killeen is directed toward securities transaction fees and not toward merchant and

customer processing transaction fees, both explicitly teach that fees are accessed in

response to fee triggered transaction events. Therefore it would have been obvious to

one of ordinary skill in the art at the time of the invention to one of ordinary skill in the art

to combine the prior art elements according to known methods as known work in one

field of endeavor may prompt variations of it for use in either the same field or a different

one based on design incentives or other market forces if the variations are predictable

to one of ordinary skill in the art.

In reference to Claim 2:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above),

wherein the period of time comprises thirty days (see Cannon Col 3, lines 35-45 and Col

4, lines 43-57, note the teaching of a monthly reporting cycle).

In reference to Claim 6:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above), further comprising: establishing, by the computer based system, the predetermined threshold ratio based on a factor comprising an average transaction volume of the merchant (See Cannon Col 3, lines 45-55 and Col 4, lines 43- 57, note that ratio relates chargebacks to transactions. As such, it is fairly suggested that establishment of the ratio is based upon the transaction volume of the merchant since the volume is the factor by which the standard for 'excessive' is defined) (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 7:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above), further comprising: determining, by the computer based system, a number of time periods in which the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant is at least equal to the predetermined threshold value (see Lee par 19- 21), wherein a threshold number of time periods is stored in which the ratio of disputed credit transactions to total credit transactions may exceed the predetermined threshold ratio (see Lee in at least para 0019; note that Lee teaches the after months of escalating fines, the merchant may lose the privilege of receiving payment through credit card issuers. As such, this fairly teaches a second threshold based upon the length of time the merchant exceeds the predetermined threshold. Note further that a second threshold based on time is also an obvious duplication of the

threshold taught by Cannon above, particularly in view of the time based penalty of

Lee); and further assessing, by the computer-based system, the chargeback fee against

the merchant only for each disputed transaction that exceeds the predetermined

threshold ratio, in response to the ratio being at least equal to the predetermined

threshold ratio for the period of time and the number of time periods for the merchant is

at least equal to the threshold number of time periods (see Lee para 19, note that

penalizing a merchant with fines is known and when combined with the period of time

measure taught by Lee fairly suggests charging a fine based upon the number of time

periods the merchant exceeds the threshold).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

<u>In reference to Claim 8</u>:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the

threshold number of time periods is greater than one (see Lee par 21, note that the

second threshold of Lee is reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

<u>In reference to Claim 9</u>:

The combination teaches:

(Previously Presented) The method of claim 8 (see rejection of claim 8 above),

further comprising, before the assessing: generating, by the computer-based system, a

notice for transmission to the merchant in response to the number of time periods for

the merchant is greater than zero and less than the threshold number of time periods,

the notice including: the ratio of the number of disputed credit transactions to the

number of credit transactions for the merchant, the predetermined threshold ratio, the

number of time periods for the merchant and the threshold number of time periods (see

Lee par 19-21, note that before implementing the time based penalty, the merchant was

levied a series of fines, fairly suggesting the generation and transmission of a notice.

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 10:

The combination teaches:

(Previously Presented) The method of claim 9 (see rejection of claim 9 above),

further comprising: transmitting, by the computer-based system, the notice to the

merchant (see Lee par 19-21, note that before implementing the time based penalty, the

merchant was levied a series of fines, fairly suggesting the generation and transmission

of a notice to the merchant). (see rationale supporting obviousness and motivation to

combine of claim 1 above)

In reference to Claim 11:

The combination teaches:

(Previously Presented) The method of claim 8 (see rejection of claim 8 above),

further comprising: generating, by the computer-based system a notice for transmission

to the merchant when the number of time periods for the merchant being greater than

zero and less than the threshold number of time periods, the notice including at least

proposed business solution for reducing the number of disputed credit transactions

involving the merchant (see Lee par 19-21, note that before implementing the time

based penalty, the merchant was levied a series of fines, fairly suggesting the

generation and transmission of a notice. Note that the contents of the claimed notice

have been considered, but are non-functional descriptive material in so far as the notice

could contain any material and the claimed invention would still operate the same. As

such, the contents of the notice have not been given patentable weight so as to

distinguish Applicant's claimed invention from the prior art). (see rationale supporting

obviousness and motivation to combine of claim 1 above)

<u>In reference to Claim 13</u>:

The combination teaches:

    (Previously Presented) The method of claim 7 (see rejection of clam 7 above),

wherein the threshold number of time periods comprising comprises a threshold number

of consecutive time periods (see Lee par 21, note that the second threshold of Lee is

reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

<u>In reference to Claim 21</u>:

The combination teaches:

    (Previously presented) The method of claim 1 (see rejection of claim 1 above),

wherein the predetermined threshold ratio is lower for higher value transactions ((Lee)

para 0127; wherein Le teaches selecting profiles such that profiles are associated

measures above certain thresholds, para 0343 wherein the prior art teaches "different

rules" with lower threshold score; suggesting variations of it for use in either the same

field or a different one based on design incentives or other market forces if the

variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

5.   **Claims 3-5, 12, 14, 16-20 and 22-23 are rejected under 35 U.S.C. 103(a) as**

being unpatentable Cannon in view of US Patent Applicant Publication

2002/0099649 by Lee and US Patent No. 7,356,516 B2 Richey et al (Richey) and

further in view of US Patent No. 6,324,523 B1 by Killeen Jr. et al. (Killeen) and in

further view of US Patent Application Publication 2004/0030644 to Sharper

(Sharper).

In reference to Claim 3:

The combination teaches:

        (Previously Presented) The method of claim 1 (see rejection of claim 1 above)...

The combination does not explicitly teach:

        ...wherein the predetermined threshold ratio comprises three percent.

Sharper teaches:

        ...wherein the predetermined threshold ratio comprises three percent (see para

10, note that a limit may be set at 1-3%) It would have been obvious to one having

ordinary skill in the art at the time of Applicant's invention to have provided Cannon in

view of Lee with the particular threshold level taught by Sharper in order to have limited

the percentage of chargebacks allowed to merchants as taught explicitly by Sharper

(see para 10). The prior art combination Cannon in view of Lee and Richey disclosed a

range of 1.5% to 3%, see Lee para 0019, the prior art Sharper was presented to provide

further evidence that it is known in the art for 3% to be a typical threshold in the art.

In reference to Claim 4:

The combination suggest/teaches:

　　　(Previously Presented) The method of claim 1 (see rejection of claim 1 above),

further comprising: establishing, by the computer-based system, the predetermined

threshold ratio based on a factor comprising: an industry category including the

merchant. ((Lee) para 0346)

Sharper teaches:

　　　...establishing the predetermined threshold ratio based on a factor comprising an

industry category including the merchant (see par 11, note that chargeback

characteristics vary from industry to industry. A ratio based on industry category is thus

fairly suggested to accommodate the differences between industries). It would have

been obvious to one having ordinary skill in the art at the time of Applicant's invention to

have provided Cannon in view of Lee with that industry differentiation of Sharper in

order to have matched the risk of an industry with the level of fine as taught implicitly by

Sharper since Sharper teaches the incidence of chargebacks varies across industries.

In reference to Claim 5:

The combination teaches:

　　　(Previously Presented) The method of claim 4 (see rejection of claim 4 above),

wherein the industry category comprising comprises a standard industrial classification

code (see Lee para 101, note that the transaction summary variables include SIC

codes, thus fairly suggesting their use in identifying the industry of the transaction).

(see rationale supporting obviousness and motivation to combine of claim 4 above)

<u>In reference to Claim 12</u>:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the
threshold number of time periods is based on an industry category including the
merchant (see par 11, note that chargeback characteristics vary from industry to
industry. A ratio based on industry category is thus fairly suggested to accommodate
the differences between industries).

(see rationale supporting obviousness and motivation to combine of claim 4 above)

<u>In reference to Claim 14</u>:

Cannon teaches:

(Currently Amended) A method comprising: calculating, by a computer-based
system, for assessing a fee, a ratio of disputed credit transactions to total credit
transactions (see Cannon, Col 3, lines 45-55, note that the ratio calculated for the
purposes of the report is that of chargebacks to transactions) for each of a plurality of
industry categories for a previous period of time (see Sharper, para 11, note that
chargeback characteristics vary from industry to industry. A ratio based on industry
category is thus fairly suggested to accommodate the differences between industries);
determining, by: the computer-based system a first threshold ratio for a first of the
industry categories based on a first factor comprising said calculating (see Cannon, Col
lines 3, lines 45-55 in combination with Sharper para 11, note that a threshold ratio is

fairly suggested by the teaching that vendors with 'excessive' chargeback ratios are

listed. The suggestion is fairly made by the need for there to be a measure i.e. the

predetermined threshold ratio for determining what is 'excessive', note further the

industry discussion of Sharper above; see in at least para 0019; note that multiple

parameters may utilized to increase security and control behavior) determining by: the

computer-based system, second threshold ratio, lower than the first threshold ratio, for a

second of the industry categories based on the first factor, the second of the industry

categories having a lower ratio of disputed credit transaction to total credit transactions

in the previous period of time than the first of the industry categories (see Cannon, Col

3, lines 4,5-55 in combination with Sharper par 11, note that a plurality of threshold

ratios is fairly suggested by the combination of these teachings since Sharper teaches

that chargeback characteristics vary from industry to industry) determining a ratio of

disputed credit transactions to total credit transactions for a merchant ((Cannon) Col 3

lines 4,5-65) in the first of the industry categories ((Lee) para 0019, para 0346; wherein

banks levy fines for merchants having two many chargeback and further teaches

product, customer, business and merchant are risk determinants; ((Sharper) para 0011;

wherein chargeback vary from industry to industry which would make obvious that ratio

would be relevant to industry); and assessing, by the computer-based system, a fee in

response to the ratio of disputed credit transactions to total credit transactions is at least

equal to the first threshold ratio ((Lee) para 0019; ((Richey) in at least FIG. 5, FIG. 7;

Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16

lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44) <u>wherein the fee</u>

is not assessed to all disputed transactions ((Richey) in at least FIG. 7; Col 6 lines 45-67, Col 7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines 55-67, Col 22 lines 25-44); and wherein the fee set based on a monetary value of each of the disputed credit transactions of the merchant that exceeds the second threshold ratio ((Cannon) in at least Col 7 lines 48-67, Col 8 lines 29-39, 45-49; (Richey) in at least FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44; Richey teaches itemizing information with respect to a dispute in order to determine the legitimacy of the disputed transaction (see in at least Col 5 lines 5-10).

Cannon does not explicitly teach:

and in response to the merchant exceeding a threshold number of time periods in which the merchant may exceed the predetermined threshold ratio without incurring the fee,...

Killeen teaches:

...and in response to the merchant exceeding a threshold number of time periods in which the merchant may exceed the predetermined threshold ratio without incurring the fee,...((Killeen) in at least FIG. 2, FIG. 3B, FIG. 7A-B; Col 2 lines 42-47, Col 10 lines 61-67, Col 11 lines 10-33)

(See rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

In reference to Claim 16:

The combination teaches:

(Previously presented) The method of claim 14 (see rejection of claim 14 above), wherein the fee is assessed for each disputed credit transaction that exceeds the first threshold ratio (see Lee par 19, note that both a fee per chargeback and a fine for too many chargebacks are both taught. The combination of these methods of penalizing chargebacks fairly suggests charging a fee for each transaction that exceeds a threshold in so far as the fee per charge back suggests the 'for each' component and the fine for having too many suggests applying the fee above a threshold). (see rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

<u>In reference to Claim 17</u>:

The combination teaches:

(Previously Presented) The method of claim 14 (see rejection of claim 14 above), further comprising determining a first threshold number of time periods in which the ratio of disputed credit transactions to total credit transactions for a merchant in the first of the industry categories exceeds the first threshold ratio, based on said calculating (see Lee par 19-21, note that Lee teaches the after months of escalating fines, the merchant may lose the privilege of receiving payment through credit card issuers. As such, this fairly teaches a second threshold based upon the length of time the merchant exceeds the predetermined threshold. Note further that a second threshold based on time is also an obvious duplication of the threshold taught by Cannon above, particularly in view of the time based penalty of Lee, see also Sharper par 11); and determining a second threshold number of time periods, lower than the first threshold number of time periods,

in which the ratio of disputed credit transactions to total credit transactions for a

merchant in the second of the industry categories may exceed the second threshold

ratio, based on said calculating (see Lee par 19-21 and Sharper par 11).

(see rationale supporting obviousness and motivation to combine of claims 1 and 4

above)

In reference to Claim 18:

The combination teaches:

(Previously Presented) The method of claim 17 (See rejection of claim 17

above), further comprising: determining, by the computer-based system, a ratio of

disputed credit transactions to total credit transactions for the merchant for a plurality of

previous time periods (see Cannon Col 3, lines 45-55, note that the ratio calculated for

the purposes of the report is that of chargebacks to transactions and Lee para 18-21);

determining, by the computer-based system, a number of time periods in which the ratio

of disputed credit transactions to total credit transactions of the merchant is greater than

the first threshold ratio (see Cannon Col 3, lines 45-55, note that the ratio calculated for

the purposes of the report is that of chargebacks to transactions and Lee par 18-21);

and assessing, by the computer-based system, a fee in response to the merchant's

current ratio of disputed credit transactions to total credit transactions is at least equal to

the first threshold ratio and the number of time periods for the merchant is at least equal

to the first threshold number of time periods (see Lee see Lee par 19 in combination

with 21, note that penalizing a merchant with fines is known and when combined with

the period of time measure taught by Lee fairly suggests charging a fine based upon the

number of time periods the merchant exceeds the threshold)

(see rationale supporting obviousness and motivation to combine of claims 1 and 4

above)

In reference to Claim 19:

The combination teaches:

      (Previously Presented) The method of claim 18 (see rejection of claim 18 above),

further comprising: generating a notice for transmission to the merchant in response to

the merchant's current ratio of disputed credit transactions to total credit transactions is

at least equal to the first threshold ratio and the number of time periods for the merchant

less than the first threshold number of time periods, including a predetermined period of

time in which the merchant must lower their ratio of disputed credit transactions to total

credit transactions to avoid chargeback fees (see Lee par 19-21, note that before

implementing the time based penalty, the merchant was levied a series of fines, fairly

suggesting the generation and transmission of a notice. Note that the contents of the

claimed notice have been considered, but are non-functional descriptive material in so

far as the notice could contain any material and the claimed invention would still operate

the same. As such, the contents of the notice have not been given patentable weight so

as to distinguish Applicant's claimed invention from the prior art).

(see rationale supporting obviousness and motivation to combine of claims 1 and 4

above)

In reference to Claim 20:

Cannon teaches:

(Currently Amended) A non-transitory computer-readable medium having stored thereon sequences of instruction, the sequences of instruction including instruction which, if executed by a computer-based system, causes the computer-based system to perform operations comprising: determine, by the computer-based system, an average ratio of disputed credit transactions to total credit transactions (see Cannon, Col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions) for each of a plurality of industry categories (see Sharper, par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries); generate, by the computer-based system, a threshold ratio of disputed credit transactions to total credit transactions ratio for a first of the industry categories based on at least a first factor comprising an automatically determined average ratio of disputed credit transactions to total credit transactions (see Cannon, Col 3, lines 45-55 in combination with Sharper para 11, note that a threshold ratio is fairly suggested by the teaching that vendors with 'excessive' chargeback ratios are listed. The suggestion is fairly made by the need for there to be a measure -i.e. the predetermined threshold ratio-for determining what is 'excessive', note further the industry discussion of Sharper above) determine, by the computer-based system, a ratio of disputed credit transactions to total credit transactions for a merchant in the first of the industry categories (see Cannon Col 3, lines 45-55, in combination with Sharper par 11); and assess, by the computer- based system, a fee to the merchant in response to in response to the

merchant's ratio of disputed credit transactions to total credit transactions is greater than

the threshold ratio of disputed credit transactions to total credit transactions, the fee

applied to each disputed transaction involving the merchant that causes the merchant to

exceed the threshold ratio of disputed credit transactions to total credit transactions

(Lee see para 19, note that both a fee per chargeback and a fine for too many

chargebacks are both taught. The combination of these methods of penalizing

chargebacks fairly suggests charging a fee for each transaction that exceeds a

threshold in so far as the fee per charge back suggests the 'for each' component and

the fine for having too many suggests applying the fee above a threshold), wherein the

fee is not assessed to all disputed transactions, ,((Richey) in at least FIG. 7; Col 6 lines

45-67, Col 7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines

55-67, Col 22 lines 25-44), and wherein the fee is set based on a monetary value of

each of the disputed credit transactions of the merchant that exceeds the predetermined

threshold ratio ((Cannon) in at least Col 3 lines 28-67, Col 4 lines 1-16, 43-55, Col 7

lines 48-67, Col 8 lines 29-39, 45-49; note that the prior art teaches credit exceed credit

risk for chargebacks and explicitly teaches information provides chargebacks as a

percentage of sales which fairly suggest that the merchants sales exception report

incorporates merchant exceeding merchant's ratio; (Lee) see para 0019, note that both

a fee per chargeback and a fine for too many chargebacks (i.e. typically 1.5-3% of

volume) are both taught. The combination of these methods of penalizing chargebacks

fairly suggests charging a fee for each transaction that exceeds a threshold in so far as

the fee per charge back suggests the 'for each' component and the fine for having too
many suggests applying the fee above a threshold)

Cannon does not explicitly teach:

   ...<u>and in response to the merchant exceeding a threshold number of time periods</u>
<u>in which the merchant may exceed the predetermined threshold ratio without incurring</u>
<u>the fee</u>,...

Killeen teaches:

   ...<u>and in response to the merchant exceeding a threshold number of time periods</u>
<u>in which the merchant may exceed the predetermined threshold ratio without incurring</u>
<u>the fee</u>,...((Killeen) in at least FIG. 2, FIG. 3B, FIG. 7A-B; Col 2 lines 42-47, Col 10 lines
61-67, Col 11 lines 10-33)

(see rationale supporting obviousness and motivation to combine of claims 1 and 4
above).

<u>In reference to Claim 22</u>:

The combination teaches:

   (Previously Presented) The method of claim 14 (see rejection of claim 14 above),
wherein the threshold ratios are lower for higher value transactions ((Lee) para 0127;
wherein Lee teaches selecting profiles such that profiles are associated measures
above certain thresholds, para 0343 wherein the prior art teaches "different rules" with
lower threshold score; suggesting variations of it for use in either the same field or a
different one based on design incentives or other market forces if the variations are
predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 23:

The combination teaches:

(Previously Presented) The medium of claim 20 (see rejection of claim 20 above), wherein the threshold ratio is lower for higher value transactions ((Lee) para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY GREGG whose telephone number is (571)270-5050. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on 5712726702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shahid R Merchant/
Primary Examiner, Art Unit 3694

/M. G./
Examiner, Art Unit 3694